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DEC 22 2004

In re Application of
John Kroeker, et al.
Application No. 09/815,726
Filed: March 23, 2001
Attorney Docket No. ELZK-004

OFFICE OF PETITIONS

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 22, 2004, to revive the above-identified application.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

It is noted that petitioner submitted an extension of time with the present petition. Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the extension fees submitted with the present petition are being credited to counsel's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 1761, for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
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for Patent Examination Policy